

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 58 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME-TAX

Versus

ASHWINKUMAR GORDHANBHAI & BROS. PVT LTD.

Appearance:

MR MANISH R BHATT for Petitioner

MR MANISH J.SHAH FOR MR.JP SHAH for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE M.C.PATEL

Date of decision: 23/06/98

ORAL JUDGEMENT (per M.C.Patel J.)

This reference is made by the Income Tax Appellate Tribunal, Ahmedabad Bench at the instance of the Revenue. The following question has been referred for the opinion of the High Court.

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee company was engaged in manufacturing processing activities and therefore entitled to the benefit of concessional treatment of tax as an 'Industrial Company' ? "

The learned counsel for the Assessee submitted that the said question was answered in favour of the assessee by this court in Commissioner of Income Tax v. Ashwinkumar Gordhanbhai and Bros Pvt. Ltd. 1995 ITR 614 in respect of the previous assessment years. In the said decision the question referred for the opinion of the High Court was as follows:

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee-company was engaged in manufacturing and processing activities and, therefore, should be charged to tax at the rate of 55 per cent.?"

Thus, it is clear that identical question was decided in favour of the assessee. Learned counsel for the revenue does not dispute this position.

The result is that the question referred in the present Reference has to be answered in the affirmative and in favour of the assessee following the said decision. The question is, therefore, answered in favour of the Assessee. No order as to costs.

Dt.23.6.1998. (C.K.THAKKER J.)

(M.C.PATEL J.)